

TRULINCS 77941053 - PANTOLIANO, KATOSH - Unit: BRO-I-C

FROM: 77941053
TO:
SUBJECT: Third motion to Amend...
DATE: 3/17/2011 11:47:33 AM

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ MAR 21 2011 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

KATOSH PANTLOINANO
_____X

SIRS:

NOTICE OF THIRD
MOTION TO AMEND
CRIMINAL ACTION
10-CR-00068-(SJ)
HONORABLE
STERLING JOHNSON JR.
U.S.D.J.-E.D.N.Y.

BROOKLYN OFFICE

DEFENDANT, KATOSH PANTOLIANO'S AFFIDAVIT IN SUPPORT OF:

MOTION TO (AMEND) AND (ADD) TO: (MOTIONS DATED FROM JANUARY 8TH. AND JANUARY 29TH. OF 2011) IN REGARDS TO:

MOTION TO SUPPRESS EVIDENCE ILLEGALLY SEIZED ON SEPTEMBER 28TH. 2009 BY THE N.Y.P.D. DUE TO AN ILLEGAL ARREST
(SEARCH AND SEIZURE), PURSUANT TO RULE 12 (b) (3) (C), ALL IN VIOLATION OF THE FOURTH, FIFTH AND SIXTH
AMENDMENT OF THE U.S. CONSTITUTION.

MOTION TO DISMISS THE ABOVE CAPTIONED INDICTMENT DUE TO A DEFECTIVE ARREST WARRANT AND DEFECTIVE
INDICTMENT, AND PRESENTING FALSE EVIDENCE AND INCORRECT INFORMATION ON AN ARREST WARRANT AND TO A GRAND
JURY.

COMES NOW DEFENDANT KATOSH PANTOLIANO, VIA PRO PER IN PROPRIA PERSONA PROCEEDING SUI JURIS IN THE ABOVE
CAPTIONED CASE AND TITLED MOTION , CLAIM , AFFIDAVIT:

AFFIDAVIT OF
KATOSH PANTOLIANO
VIA,FED.RUL.CIV.P.56(f)

[1.] Defendant Pantoliano states that he was illegally arrested with co-defendant Anthony Tuozzo on September 28th., 2009 by
the New York City Police Department with lack of (indeed no) probable-cause. Defendant claims that there was newly
discovered core exculpatory material, BRADY- evidence (that was produced in a Suppression Hearing on October 18th., 2010)
that reveals facts that pertain to defendants Fourth Amendment Constitutional claims.

[2.] At this time , Defendant seeks order to Suppress all tangible items that were fabricated and allegedly obtained from
defendants person incident to his arrest, which includes: \$300 dollars in U.S. currency, one Motorola cellular phone, and the

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oral statement that was allegedly made to NYPD officers incident to defendants arrest.

[3.] As grounds for the motion to Suppress evidence illegally siezed, defendant claims that he was illegally arrested with codefendant Anthony Tuozzo on September 28th., 2009 without a warrant and without probable cause, in violation of the Fourth, Fifth, and Sixth Amendment of the United States Constitution. Defendant states that the search of defendants person and any statements made prior to his arrest with Anthony Tuozzo were unlawful, in violation of Due Process, and therefore, the fruits of that search must be Suppressed, or to grant a hearing in the alternative to bring out the facts involved in the illegal arrest that occurred on September 28th., 2009 of defendant Pantoliano and Anthony Tuozzo.

[4.] Defendant also claims that he was illegally rearrested on January 20th., 2010 by the ATF-NYPD "joint-task-force" due to a defective arrest warrant containing materially false allegations, in other words no probable cause and incorrect information sworn by ATF agent Ayesha R. Winston on an application for an arrest warrant signed by Magistrate Judge Orenstein on December 17th., 2009. Moreover the government presented more incorrect information (false evidence) to a Federal Grand-Jury on February 2nd., 2010 creating a defective indictment. Defendant states that his right to Due Process was violated and seeks order for the court to dismiss the entire indictment based on the evidence that the defendant possesses, or to grant a hearing in the alternative to bring out facts involved in this type of misconduct and Constitutional violations.

WHEREFORE, under the Fourth, Fifth, and Sixth Amendment of the United States Constitution in regards to all of the above reasons, with defendant in possession of supportive transcripts and reports independently corroborating defendants claims, requiring a fundamentally fair adjudication and appropriate remedy.

PRO PER IN
PROPRIA PERSONA
PROCEEDING
SUI JURIS

RESPECTFULLY SUBMITTED BY:
DEFENDANT, CLAIMANT, AFFIANT:
KATOSH PANTOLIANO, 77941-053
MDC-BKLYN, P.O. BOX 329002
BROOKLYN, N.Y. 11232

SIGNED UNDER
PENALTIES OF
PERJURY

CERTIFICATE OF SERVICE:
I DEFENDANT, KATOSH PANTOLIANO, HEREBY CERTIFY THAT THIS
AFFIDAVIT, MOTION WAS SENT VIA U.S. MAIL, POSTAGE PREPAID
ON THIS 17TH. DAY OF MARCH 2011 TO THE FOLLOWING:

HONORABLE STERLING JOHNSON JR.
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK
225-CADMAN PLAZA EAST
BROOKLYN, N.Y. 11201

U.S. ATTORNEYS OFFICE
AUSA- ALI KAZEMI
EASTERN DISTRICT OF NEW YORK
271- CADMAN PLAZA EAST
BROOKLYN, N.Y. 11201

CLERK OF U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
225- CADMAN PLAZA EAST
BROOKLYN N.Y. 11201

C.C....:FILE